

**UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF TENNESSEE**

IN RE:)	
)	
KEITH S. TOBIAS and)	Case No. 09-08107-KL3-11
(SSN XXX-XX-8866))	(Chapter 11)
)	Judge Keith M. Lundin
KAREN A. TOBIAS,)	
(SSN XXX-XX-9198))	
)	
Debtors-in-Possession.)	
)	
)	
SUNTRUST MORTGAGE, INC.,)	
)	
Movant,)	
)	
v.)	Contested Matter
)	
KEITH S. TOBIAS and)	
KAREN A. TOBIAS,)	
)	
Respondents.)	

PREHEARING STATEMENT

Pursuant to this Court's "Notice of Preliminary Hearing and Prehearing Order" entered August 13, 2009 (Document No. 20), the debtors-respondents, Keith S. and Karen A. Tobias (collectively, the "Debtor"), hereby submit this pretrial statement. Efforts to make this a joint statement have been unsuccessful.

**Statement of Debtor's Defenses
and Contentions of Fact in Support Thereof**

It is the position of the Debtor that cause does not exist to grant the movant, SunTrust Mortgage, Inc. (the "Movant"), relief from the automatic stay provisions of Bankruptcy Code section 362. The Movant asserts a deed of trust lien against the Debtor's residence. The subject real property is necessary to an effective reorganization for the Debtor. The subject real property is currently in good repair and maintenance. The real property is currently fully insured.

The bankruptcy case was not filed in bad faith. The case was filed in a good faith effort to reorganize the financial affairs of the Debtor. The Debtor possesses a reasonable possibility of successfully reorganizing within a reasonable period of time. The real property is not subject to waste, neglect, depreciation, or loss. The Debtor is current on all of its post-petition obligations, except its obligations to the Movant.

Admitted Facts

1. On July 20, 2009, the Debtor filed a voluntary petition under Chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court, Middle District of Tennessee.
2. This is a core proceeding within the meaning of 28 U.S.C. § 157 (2009).
3. Venue is appropriate in this Court pursuant to 28 U.S.C. § 1409 (2009).
4. The property is currently fully insured.

Contested Facts and Legal Issues

1. Whether cause exists to grant the Movant relief from the automatic stay provisions of Bankruptcy Code section 362 to allow the Movant to pursue its state law remedies.

Dated: August 31, 2009.

Respectfully submitted,

/s/ Joseph P. Rusnak
Joseph P. Rusnak
TUNE, ENTREKIN & WHITE, P.C.
Regions Center, Suite 1700
315 Deaderick Street
Nashville, TN 37238
(615) 244-2770 Voice
(615) 244-2778 Fax
Jrusnak@tewlawfirm.com

Attorneys for the Debtors-in-Possession

Certificate of Service

I hereby certify that a true and exact copy of the foregoing "Prehearing Statement" has been served upon the following counsel for parties in interest herein by delivering the same to the offices of said counsel, or by mailing same to the office of said counsel by United States mail with sufficient postage thereon to carry the same to its destination:

U.S. Trustee
318 Customs House
701 Broadway
Nashville, TN 37201

Angel R. Gordon, Esq.
Johnson & Freeman, LLC
1587 Northeast Expressway
Atlanta, GA 30329

Dated: August 31, 2009.

/s/ Joseph P. Rusnak
Joseph P. Rusnak

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